

REMARKS

Applicants respectfully request reconsideration of the application in view of the remarks below. Claims 1-3, 22-23, 27, 29-31, 33, 34, and 36 have been amended. Claims 1-10 and 22-36 remain pending in the application, of which claims 1, 22, and 36 are independent. Applicants also gratefully acknowledge the Examiner's indication that the previously made new matter rejections have been withdrawn.

No new matter has been added by way of the foregoing amendments. Additionally, the foregoing amendments have been made for administrative convenience, and Applicants do not acquiesce to the position set forth by the Examiner in the previous Office Action. Specifically, Applicants do not concede that any of the amendments above were required to overcome the cited references of record. Accordingly, Applicants reserve the right to pursue claims of scope similar to the claims prior to the foregoing amendments, and to pursue alternative theories of patentability to those presented herein.

Comments regarding Examiner Interview

Applicants gratefully acknowledge the courtesies extended to their representative by Examiner Porter and Supervisory Patent Examiner Thomas during an interview conducted on April 21, 2005. During the interview, the pending claims and references of record were discussed at length.

Applicants' representative maintained that the references of record, even when considered in the combination proposed by the Examiner, did not fairly teach the claimed "code representing instructions to cause a processor to ... determine a room rate," which was based on two comparisons. Specifically, Applicants' representative argued that the underlying comparisons (among other features) were not taught by the combination of cited references. No agreement was reached regarding the pending claims as the Examiner maintained that the references, in combination, disclosed the claimed subject matter. Other items, as noted on the Examiner's Interview Summary and as detailed further herein, were also discussed during the interview. The Examiner agreed to reconsider the rejection in light of any new amendments/remarks.

Examiner's Comments regarding Examiner Interview of July 2, 2004

Applicants note that, beginning on page 23 of the Office Action, the Examiner has taken exception to the summary of an Examiner interview conducted on July 2, 2004 provided in Applicants' Reply filed July 19, 2004. In response, Applicants note that both they and their representative believed the summary of that interview to be accurate, and did not intend to mischaracterize the interview in any way.

Claims 1-10 Recite Statutory Subject Matter

In the interview of July 2, 2004, the Examiner expressed some concerns about whether claims 1-10 were sufficiently grounded in the technological arts to satisfy 35 U.S.C. § 101. In amendments to the preamble Applicants more explicitly tied the invention to the technological arts by reciting the "processor readable medium" that causes a "processor" to perform certain operations. The Applicants gratefully acknowledge the Examiner's finding that in their present form the claims comply with 35 U.S.C. § 101.

Despite that finding, the Applicants respectfully disagree with the Examiner to the extent that the Examiner has offered a construction of the preamble claim terms that narrows the scope of those claim terms beyond the ordinary and customary meanings attributed to them by one of ordinary skill in the art. The plain meaning of the terms clearly brings the claims within the technological arts and any special construction that narrows the scope of those terms to cover less than their plain meaning is unnecessary and improper and should be disallowed.

Claims 1-10 and 34-35 are Definite Under 35 U.S.C. § 112

Claims 1-10 have been rejected as allegedly being indefinite under 35 U.S.C. § 112, second paragraph. Applicants respectfully traverse this rejection for the reasons set forth below.

With respect to claim 1, the Examiner has stated that it is "unclear ... how the recited 'guest profile information associated with similar guests' is distinct from the recited guest information." (Office Action at 3.) Although this objection has been partially rendered moot by the foregoing amendments, Applicants also respectfully submit that this term is not unclear. Specifically, "guest information" is received from a first guest in claim 1, while a predetermined category of guests is said to "include[e] guests having similar guest profile information." They

constitute discrete pieces of information, the context of which may overlap to some extent. The Applicants respectfully submit that no ambiguity in this language, which Applicants submit is both clear and definite, as required by 35 U.S.C. § 112.

Additionally, the Examiner has stated that she believes “it is unclear which steps/functions are encoded to be executed/Performed by a processor...” (Office Action at 3.) Applicants submit, however, that it is not unclear what operations are being performed by a processor. Specifically, claim 1 recites “[a] processor-readable medium comprising code representing instructions to cause a processor to [perform multiple operations].” Thus, each of the operations recited in the claim is performed by the processor in response to code representing instructions included in a processor-readable medium. In other words, there is no ambiguity in this language either, which Applicants submit is both clear and definite, as required by 35 U.S.C. § 112. Similar arguments apply to dependent claims 2-10, which incorporate this language of independent claim 1.

Regarding claim 34, Applicants respectfully submit that the Examiner’s objections have been rendered moot by the foregoing amendments to that claim. Thus, for the same reasons, this objection to claim 35 has been rendered moot also.

Accordingly, for the reasons detailed above, Applicants respectfully request that the Examiner withdraw the rejections of claims 1-10 and 34-35 under 35 U.S.C. § 112.

Claims 1-4 and 22-36 are patentable over Tagawa, the Red Roof Release, and Smith

Claims 1-4 and 22-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,732,398 to Tagawa (hereinafter “*Tagawa*”) in view of a news release entitled, “Red Roof Inns Implements High-Tech Revenue Management System,” dated June 2, 1998 (hereinafter the “*Red Roof release*”), and further in view of U.S. Patent No. 6,085,164 to Smith et al. (hereinafter “*Smith*”). Applicants respectfully traverse this rejection for the reasons set forth below.

The combination of references cited in the Office Action do not collectively disclose or suggest the combination of claim features recited in any of the independent claims. More specifically, the cited combination of references does not provide disclosure of the claimed

combination nor would they have provided any motivation to one skilled in the art to create such a combination.

In the independent claims the processes ultimately determine room rates for a guest based on multiple pieces of information. That information includes not only information about the room being requested and the inventory for such rooms, but also information that permits the system to treat similarly situated guests to similar room rates. This is made possible by making reference to information about the guest that allows the system to categorize the guest based on accumulated profiles of guests. The result is that when a guest makes a room request the system will perform an analysis of the guest information and the request such that if two guests with similar profiles make substantially the same request they will be treated in substantially the same manner. Thus by combining the guest/guest profile relationship with room inventory information the claimed system provides a unique arrangement for providing rate information that treats similarly situated guests in a consistent fashion.

In the cited references there are various techniques for automating room rate determination. It is respectfully submitted, however that the unique use of guest information with guest profile information related to a category of guests is simply not suggested by these references taken alone or in combination assuming for argument's sake that it is proper to combine those references.

Therefore, Applicants respectfully submit that the independent claims, and all of their dependent claims are allowable over this prior art.

Accordingly, for at least these reasons, Applicants respectfully request that the Examiner withdraw the rejection of independent claims 1, 22, and 36. Additionally, for at least the same reasons, Applicants respectfully request that the Examiner withdraw the rejection of claims 2-4, which depend from independent claim 1, and claim 23-35, which depend from independent claim 22, as those dependent claims are patentable for at least the same reasons as their respective independent claims.

Claims 5-7 and 9-10 are patentable over the combination of Tagawa, the Red Roof Release, Smith, and Kerr

Claims 5-7 and 9-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Tagawa, the Red Roof release*”, and *Smith*, as applied to claims 1 and 4, and further in view of U.S. Patent No. 5,404,291 to Kerr et al. (hereinafter “*Kerr*”). Applicants respectfully traverse this rejection for the reasons set forth below.

Kerr is cited as allegedly disclosing a computer-implemented method for organizing hotel inventories. Without conceding the correctness about the Examiner’s assertion, those dependent claims are patentable since they depend from allowable claim 1. *Kerr* fails to remedy the deficiencies of the combination of *Tagawa, the Red Roof release*, and *Smith* in rejecting independent claim 1, and thus claim 1 and its dependent claims are allowable over a combination that further includes *Kerr*.

Claim 8 is patentable over the combination of Tagawa, the Red Roof Release, Smith, and Kerr

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Tagawa, the Red Roof release, Smith, and Kerr*, as applied to claims 1 and 4, and further in view of U.S. Patent No. 4,775,936 to Jung et al. (hereinafter “*Jung*”). Applicants respectfully traverse this rejection for the reasons set forth below.

Jung, which is cited as allegedly suggesting maximizing profits by using the total capacity of the hotel. Without conceding the correctness about the Examiner’s assertion, those dependent claims are patentable since they depend from allowable claim. *Jung*, fails to remedy the deficiencies of the combination of *Tagawa, the Red Roof release*, and *Smith* in rejecting independent claim 1 and thus claims 1 and 8 are also allowable over a combination that further includes *Kerr* and *Jung*.

Conclusion

Applicants respectfully submit that the present application is in condition for allowance, and earnestly solicit a Notice of Allowance, which is believed to be in order. Should the

Examiner have any questions regarding this communication, or the application in general, she is invited to telephone the undersigned at 703-456-8567.

Although it is believed that no fees are required for this paper, the Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

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